

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JOHNNY RAY CAPUCHINO, #02070144,	§	
Plaintiff,	§	
	§	
v.	§	Civil Case 3:17-CV-3240-D
	§	
SCOTT-BURGER, Unit Grievance,	§	
Officer, et al.,	§	
Defendants.	§	

ORDER


The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. No objections were filed. The district judge reviewed the proposed findings, conclusions, and recommendation for plain error. Finding none, the court adopts the findings, conclusions, and recommendation of the United States Magistrate Judge.

The court prospectively certifies that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this finding, the court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on the findings, the court finds that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of the Court, U.S. Court of Appeals for the Fifth Circuit.

See Baugh, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

SO ORDERED.

April 18, 2018.



SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE